

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

NANCY WHELAN,

Plaintiff,

v.

CIVIL ACTION NO. 2:12-cv-01588

WELLS FARGO BANK, N.A., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

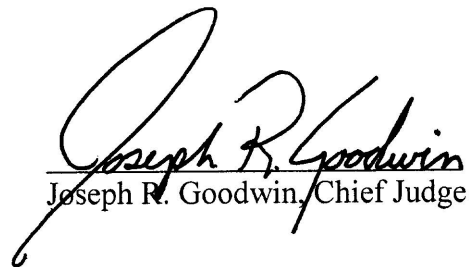
Pending before the court is the plaintiff, Nancy Whalen's Motion to Remand [Docket 6]. For the reasons discussed below, this motion is **GRANTED**.

This action arises out of allegations of mortgage loan servicing abuse. On April 2, 2012, plaintiff Nancy Whalen filed suit in the Circuit Court of Kanawha County, West Virginia. On April 6, 2012, the plaintiff provided the office of the West Virginia Secretary of State with two copies of her complaint, including one original and two copies of a summons for Wells Fargo. The Secretary of State sent a complaint and summons to Wells Fargo by certified mail. On April 12, 2012, an employee of Wells Fargo signed for the delivery. On May 18, 2012, the defendant removed the case to this court. In its notice of removal, the defendant stated that it was served with a copy of the complaint on April 20, 2012. However, the defendant has since conceded that it was actually served on an earlier date which was more than 30 days prior to filing the Notice of Removal. (Stipulation Regarding Remand [Docket 8]).

28 U.S.C. § 1446(b) provides: “The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based” A review of the record in this case confirms that removal occurred after the thirty-day period required by § 1446(b), and the defendant has since confirmed that removal was defective. Accordingly, the court **GRANTS** the plaintiff’s Motion to Remand [Docket 6] and **REMANDS** this case to the Circuit Court of Kanawha County, West Virginia.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: July 24, 2012



Joseph R. Goodwin, Chief Judge